

1 TORRANCE CITY ATTORNEY'S OFFICE
2 John L. Fellows III (State Bar No. 103968)
3 City Attorney
4 jfellows@TorranceCA.gov
5 Della Thompson-Bell (State Bar No. 224846)
6 Deputy City Attorney
7 dthompsonbell@TorranceCA.Gov
8 3031 Torrance Boulevard
9 Torrance, CA 90503
10 Telephone: 310-618-5810
11 Facsimile: 310-618-5813

12 RUTAN & TUCKER, LLP
13 Robert S. Bower (State Bar No. 70234)
14 rbower@rutan.com
15 Ajit S. Thind (State Bar No. 268018)
16 athind@rutan.com
17 611 Anton Boulevard, Fourteenth Floor
18 Costa Mesa, California 92626-1931
19 Telephone: 714-641-5100
20 Facsimile: 714-546-9035

21 Attorneys for Defendant
22 TORRANCE POLICE DEPARTMENT

23 UNITED STATES DISTRICT COURT

24 CENTRAL DISTRICT OF CALIFORNIA

25 ROBERT THOMSON,
26 Plaintiff,

27 vs.

28 TORRANCE POLICE
29 DEPARTMENT and THE LOS
30 ANGELES COUNTY SHERIFFS
31 DEPARTMENT,
32 Defendants.

33 Case No. CV11-06154 SJO (JCx)
34 Date Action Filed: July 26, 2011

35 Assigned to:
36 U.S. District Judge S. James Otero

37 **DEFENDANT TORRANCE POLICE
38 DEPARTMENT'S STATEMENT OF
39 UNCONTROVERTED FACTS AND
40 CONCLUSIONS OF LAW**

41 Date: February 27, 2012
42 Time: 10:00 a.m.
43 Courtroom: 1-2nd Floor
44 Location: Spring Street

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1 Pursuant to Central District of California Rule 56-1, Defendant Torrance
 2 Police Department (“TPD”) respectfully submits the following “Separate Statement
 3 of Uncontested Facts and Conclusions of Law” in support of its Motion for
 4 Summary Judgment:

5 **UNCONTROVERTED FACTS**

<u>UNCONTROVERTED FACT</u>	<u>SUPPORTING EVIDENCE</u>
7 1. A true copy of the TPD’s 8 “good cause” policy for issuing a CCW 9 license is attached to Chief Neu’s 10 declaration as Exhibit A.	Declaration of Chief of Police John Neu filed concurrently herewith (“Neu Decl.”), ¶ 2, Ex. A.
11 2. Plaintiff submitted his first 12 application to the TPD for a CCW 13 license on December 19, 2008 (“First 14 Application”). A true copy of the First 15 Application is attached to Chief Neu’s 16 declaration as Exhibit B.	Neu Decl., ¶ 5, Ex. B.
17 3. In his First Application, 18 Plaintiff claimed (i) to be a licensed 19 California Bail Agent residing in the 20 City of Torrance; (ii) that due to his job, 21 he sometimes had over \$10,000 in cash 22 in his possession late at night in high 23 crime areas; (iii) he had passed multiple 24 criminal background checks, and had 25 completed a course on powers of arrest 26 provided by the Bureau of Security and 27 Investigative Services; (iv) that on one	Neu Decl., ¶ 5, Ex. B, pp. 9-11, 26, 28, 29.

<u>UNCONTROVERTED FACT</u>	<u>SUPPORTING EVIDENCE</u>
<p>1 occasion, while meeting a client's 2 family, a man answered the door 3 holding a firearm; and (v) that on 4 another occasion, he needed the 5 assistance of the Los Angeles Sheriff's 6 Norwalk Station to help him arrest a 7 subject who had a bail warrant. In 8 neither incident was Plaintiff assaulted, 9 and he did not file a police report in 10 either incident.</p>	
<p>12 4. Plaintiff's First Application 13 was denied by the TPD on April 1, 14 2009, based on Plaintiff's failure to 15 demonstrate "good cause" under the 16 TPD's "good cause" policy because 17 there were no documented specific 18 threats directed at Plaintiff, and there 19 was no evidence that local police 20 agencies could not assist Plaintiff with 21 any problems that might arise while 22 Plaintiff performed his work as a bail 23 agent.</p>	Neu Decl., ¶ 6, Ex. B at pp. 8-11.
<p>24 5. Plaintiff submitted his 25 second application to the TPD for a 26 CCW license on December 19, 2010 27 ("Second Application"). A true copy of</p>	Neu Decl., ¶ 7, Ex. C.

<u>UNCONTROVERTED FACT</u>	<u>SUPPORTING EVIDENCE</u>
1 2 the Second Application is attached to 3 Chief Neu's declaration as Exhibit C.	
4 6. In his Second Application, 5 Plaintiff recounted only one incident in 6 addition to the grounds he had set forth 7 in his first application as justification 8 for a license. That new incident 9 actually did not involve Plaintiff's job - 10 rather, it involved his wife's, who 11 works in real estate. While assisting her 12 in changing the lock at a unit in a 13 residential complex located in the City 14 of Los Angeles, Plaintiff was allegedly 15 confronted by the former tenants of the 16 unit and some other tenants who 17 threatened Plaintiff with physical harm 18 and threw household items at him. 19 Plaintiff contacted the LAPD, and the 20 change of lock was thereafter completed 21 without incident.	Neu Decl., Ex. C, pp. 56, 73.
22 7. Plaintiff's Second 23 Application was denied by the TPD on 24 April 5, 2011, based on Plaintiff's 25 failure to demonstrate "good cause" 26 under the TPD's "good cause" policy 27 because (i) Plaintiff recounted only one	Neu Decl., ¶¶ 8, 9, Ex. C, at pp. 53, 57.

<u>UNCONTROVERTED FACT</u>	<u>SUPPORTING EVIDENCE</u>
<p>incident in addition to the grounds he had set forth in his First Application as justification for a CCW license,</p> <p>(ii) there were no documented specific threats directed at Plaintiff, and</p> <p>(iii) there was no evidence that local police agencies could not assist Plaintiff with any problems that might arise while Plaintiff performed his work as a bail agent.</p>	
<p>8. In his CCW applications, Plaintiff admitted that:</p> <ul style="list-style-type: none"> • he had never been threatened within the jurisdiction of the TPD; • he had no security concerns within the jurisdiction of the TPD; • he had never been physically assaulted or robbed during the course of his employment in any jurisdiction; • he had never had to file a report with any police agency regarding threats made against him or his family; 	<p>Neu Decl., ¶ 9; Ex. B, pp. 10-11, 29; Ex. C, pp. 56-57, 73.</p>

<u>UNCONTROVERTED FACT</u>	<u>SUPPORTING EVIDENCE</u>
<ul style="list-style-type: none"> • he evaluates every bail bond with safety in mind, and if he believes there is any type of risk, he refuses to take the case; and • his concerns were with the “unforeseen” and “what ifs” that went along with his job. 	

10 **THE TPD'S PROPOSED CONCLUSIONS OF LAW AND PROPOSED
11 JUDGMENT**

12 Based on the foregoing Uncontroverted Facts, the TPD submits that certain
13 Conclusions of Law should be made as respectively set forth below:

14 1. There is no Second Amendment right to carry a concealed handgun in
15 public.

16 2. Even if the Second Amendment could be plausibly read to protect a
17 right to a CCW license, the TPD's Policy does not burden that right, and thus it is
18 reviewed under the rational basis test. The Policy passes constitutional muster
19 because it is reasonably related to a legitimate governmental interest.

20 3. Even if the TPD's Policy burdened Plaintiff's rights, and thus is
21 reviewed under heightened scrutiny, it passes constitutional muster because the
22 Policy is substantially related to important government interests.

23 4. Plaintiff is entitled to nothing under his Complaint.

24 5. Judgment shall be entered in Defendant TPD's favor.

25 **THE TPD'S PROPOSED JUDGMENT**

26 After consideration of the papers in support of and in opposition to the cross-
27 motions for summary judgment and the argument of counsel, this Court orders
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1 summary judgment in favor of Defendant TPD.
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4 Dated: January 3, 2012

Respectfully Submitted,
RUTAN & TUCKER, LLP

5 By:

6 Ajit S. Thind
7 Attorneys for The Torrance Police
8 Department

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